

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GARY L. SMITH,

Plaintiff,

vs.

CLARK COUNTY DETENTION CENTER,

Defendant.

Case No. 2:07-cv-01164-LRH-GWF

**FINDINGS AND
RECOMMENDATIONS**

On August 28, 2007, Plaintiff submitted a Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 (#1). However, Plaintiff did not pay the filing fee of \$350.00 as required to commence a civil action in federal court. On January 31, 2008, the Court issued Order (#2), which directed Plaintiff to either pay the appropriate filing fee of \$350.00, or submit a completed application and affidavit in support of a request to proceed *in forma pauperis* within thirty (30) days from the date Order (#2) was entered. To date, Plaintiff has not complied with Court Order (#2) within the allotted time period, and the time allowed has expired. Accordingly,


IT IS HEREBY RECOMMENDED that the Complaint should be **dismissed** without prejudice based on Plaintiff's failure to either pay the appropriate filing fee of \$350.00, or submit a completed application and affidavit in support of a request to proceed *in forma pauperis*.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the

1 courts of appeal may determine that an appeal has been waived due to the failure to file objections
2 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)
3 failure to file objections within the specified time and (2) failure to properly address and brief the
4 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
5 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
6 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

7 DATED this 13th day of March, 2008.

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10 **GEORGE FOLEY, JR.**
11 **UNITED STATES MAGISTRATE JUDGE**
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